In the High Court of Uttaranchal, at

Nainital.

Criminal Misc. Application No. 447/2001
(Old No. 10233 of 1985)

M/s Shiv Karan Dass Dwarika Prasad through its proprietor Bhagwati Charan S/o Dwarika Prasad Agarwal
R/o Mohalla Mal Godam Toad, Kotdwar
District Pauri Garhwal .. Petitioner.

Versus

1- State
2- Special judge, Pauri Grahwal
3- District Supply Officer,
Pauri Grahwal ...Respondents.

Sri S.K. Agarwal, learned Senior Advocate for the petitioner.
Sri Lalit Verma, learned A.G.A. for the respondents.

Hon'ble B.C. Kandpal,J.

This petition U/S 482 of the Code of Criminal Procedure has been filed by the petitioner, who is facing the trial U/S 3/7 of the Essential Commodities Act, before the Special Judge, Pauri Garhwal in case No. 4 of 1985.

2- Brief facts of the case are that the firm of the petitioner ws inspected by the Supply Inspector and he found certain irregularities in the record pertaining to the stock of the mustard oil. The Supply Inspector also found that the mustard oil was being sold on a higher rate than the prescribed rate. The Supply Inspector was of the opinion that there was a violation of the provisions of Section 3/7 of the E.C.Act and accordingly challaned the firm of the petitioner.

3- The petitioner has thus challenged the proceedings of the criminal case pending against him before the Special Judge, Pauri Garhwal under the provisions of Section 3/7 E.C. Act.

4- Heard the learned counsel for the parties and perused the record.

5- Having considered the arguments advanced by the learned counsel for the parties, I am of the view that there is no abuse of process of court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence which can be seen by the trial Judge only. Any judgment to be rendered by me would amount to a premature judgment where the evidence is yet to be adduced before the trial Judge.

6- The petition lacks merit and is liable to be dismissed.

7- The petition is accordingly dismissed.

8- The learned counsel for the petitioner has submitted before the court that there is a G.O. by the U.P. Government to withdraw the pending prosecution under the provisions of Section 3/7 Essential Commodities Act. In case if that G.O. is applicable in the State of Uttaranchal, the trial court may deal the matter in accordance with law.

(B.C. Kandpal, J.)

Dated: 17-08-2006

ISB